

Tippecanoe County Drainage Board

Minutes

September 1, 2010

Regular Meeting

Those present were:

Tippecanoe County Drainage Board President Thomas Murtaugh, Vice President David Byers, member John Knochel, County Surveyor Zachariah Beasley, Drainage Board Attorney Dave Luhman, and Drainage Board Secretary Brenda Garrison. Drainage Board Engineering Consultant Dave Eichelberger from Christopher B. Burke Engineering Limited was absent.

Approval of Minutes

David Byers made a motion to approve the August 4, 2010 Regular Drainage Board minutes as written. John Knochel seconded the motion. The August 4, 2010 Drainage Board meeting minutes were approved as written.

Petition to Partially Vacate the James L. McClure Regulated Drain

A Petition to Partially Vacate James L. McClure Regulated Drain was submitted by Schneider Engineering to the Surveyor's office regarding the St. Franciscan Eldercare Services project. The Surveyor presented the submittal to the Board for approval. He noted there were no other parties affected by this request. He stated the Surveyor's office had no objection to the request and recommended approval. John Knochel made a motion to grant approval for the Petition to Partially Vacate the James L. McClure Regulated Drain. David Byers seconded the motion. The Petition to Partially Vacate the James L. McClure Regulated Drain was approved as submitted.

Petition to Encroach J. Berlovitz Regulated Drain

A Petition to Encroach on the J. Berlovitz Regulated Drain was submitted to the Surveyor's office by Tipmont R.E.M.C. for the Wabash Valley Power Assoc. regarding their project. The Surveyor presented the submittal to the Board for approval. Responding to Commissioner Byer's inquiry, the Surveyor noted Wabash Valley Power Station was located on the east side of the J. Berlovitz open ditch and on the north side of County Road 50 South. Tipmont R.E.M.C. was boring under the open ditch for conduit and that is the reason for the request. He stated the Surveyor's office had no objection and recommended approval. David Byers made a motion to grant approval for the Petition to Encroach on the J. Berlovitz Regulated Drain. John Knochel seconded the motion. The Petition to Encroach on the J. Berlovitz Regulated Drain was approved as submitted.

Maintenance Bonds/Letters of Credit

The Surveyor presented Maintenance Bond #5036050 in the amount of \$21,186.00 written by the Bond Safeguard Insurance Company, dated August 24, 2010 and submitted by Keller Development regarding the Chaplegate Park Apartments. The Surveyor explained to the Board how the amounts are established for the bond amounts or letters of credit amounts. John Knochel made a motion to accept the Maintenance Bond as presented by the Surveyor. David Byers seconded the motion. Maintenance Bond #5036050 in the amount of \$21,186.00 and dated August 24, 2010 regarding Chapelgate Park Apartments was accepted by the Board as submitted.

The Surveyor presented Letter of Credit #3230 in the amount of \$5000.00 written by Tower Bank, dated August 24, 2010 and submitted by Keller Development regarding the Chaplegate Park Apartments. The attorney noted this Letter of Credit was a backup to the Maintenance Bond. David Byers made a motion to accept the Letter of Credit as presented by the Surveyor. John Knochel seconded the motion. The Letter of Credit #3230 in the amount of \$5000.00 written by Tower Bank, dated August 24, 2010 and submitted by Keller Development regarding the Chaplegate Park Apartments was accepted as submitted.

Indian Creek Watershed

The Surveyor stated this issue was discussed two months ago with Mrs. Bower and Mr. Maley landowners within the watershed who have experienced problems with their drainage. Since then the Surveyor's office has worked to come up with different watershed options. Last month those options were presented to the Board however there were no landowners present at that time. Therefore the Board requested the watershed options be reviewed again today with landowners Bowers and Maley present. Option #1 was the overall watershed for Indian Creek. The watershed boundary was determined by The Indiana Department of Natural Resources (I.D.N.R.) study and began at the confluence of Indian Creek and Wabash River and continued north to County Road 850 North and Morehouse Road. (east and west of that location) The watershed consisted of approximately 19,000 acres or 4,200 parcels. The land within the watershed was approximately 60% agricultural use and 40% residential units. This option involved the entire stretch of Indian Creek. Option #2 was approximately the northern half of the overall watershed. The Kankakee Beaverville Railroad would be used as the southernmost watershed boundary for this option. It consisted of approximately 9,200 acres and/or approximately 1,200 parcels. This option cut the overall watershed in approximately half and was approximately 70% agricultural and 30% residential tracts. Option #3 would be the smallest area of all the options. The east boundary would be Taft Road/County Road 300 West, the northern and western boundary would be Indian Creek and the southern boundary would be U.S. 52. There were approximately 30 acres agricultural and 21 parcels within this option. This option would convert the natural surface area from Taft Road/ Co. Rd. 300W to Indian Creek into a County Regulated Drain. This was an option discussed with Mr. Maley and Ms. Bower on an earlier site visit. If the surface conveyance was made a county regulated drain it would potentially help some of the smaller rain events or nuisance water. He cautioned the landowners stating on paper it was possible to do this, however the area was still mostly in the flood plain as roughly 11 to 13 square miles upstream drainage area flowed to this location. If this area was to get a 100 year rain event there would still be problems. With that said he turned the meeting over to the landowners. Mr. Cary Maley 3756 North 300 West West Lafayette asked if the northern half of the watershed's drainage was improved (by expanding the flow under the said railroad tracks) would affect landowners south of the tracks. The Surveyor responded yes it would affect those landowners. The Surveyor stated the DNR study showed the culvert underneath the railroad track acted as a restrictor and the railroad track was high enough that the water was not able to overtop it. The water would then pool up behind it. The report showed approximately 11 to 13 feet of pooling. So it acted as a large dam and backed up the water. One could implement a larger regional detention facility (or holding pond) in the upper portion of the watershed to collect the water and slow it down before reaching the railroad tracks. Responding to Mr. Murtaugh's inquiry, the Surveyor stated if the entire Indian Creek watershed was made a County Regulated Drain it could be studied and a master plan could be put together over the next few years. This would give the Drainage Board the ability to implement the recommendations within the watershed. The improvements would not have to be directly on Indian Creek. Mr. Maley stated it was understood that those actions would affect the entire area in a positive way. Mr. Maley then stated Indian Creek on occasion was affected by the overflow of Hadley Lake. This could be taken into consideration by the study, and meant one would make sure Hadley Lake did not interconnect with Indian Creek and it flowed in its intended direction. Mr. Maley continued that he felt it was important to do this as his area and south (Capilano) were greatly affected by Hadley Lake's overflow. The Surveyor stated this could be looked at as well as he had originally four options for the Board with the original study of Indian Creek by DNR included Hadley Lake. There was the 4th option which included the northern portion without Hadley Lake and was presented last month at the Board meeting. The reason why was it was omitted on that option was there were two county regulated drains which flowed into Hadley Lake and one that exits Hadley Lake.(outfall) Hadley Lake is a natural glaciated lake. An open ditch was constructed to take the overflow to a tributary which routed into Burnett's Creek. So it actually flowed in the opposite direction of Indian Creek. It could be studied from the aspect when it rains enough it did have the tendency to overflow to the west or southwest. The options were put together so the landowners could decide which one to go with and how to proceed. Mr. Byers noted in order to regulate a drain; the statute states landowners owning 51% or more of the ACREAGE (not just landowners) within the watershed were required to sign the petition. The Attorney reiterated to set up a County Regulated Drain required the signatures of owners with 51% or more of the acreage within the watershed not just 51% of the total of owner's that determined the outcome. Judy Bower 3750 North 300 West West Lafayette stated she did not know which option would include the Menards retention area. She felt they also drain into Indian Creek. The Surveyor stated the entire Menards site would be included in options #1 and #2. Mr. Murtaugh asked if option #3 would have to be included in this area in order to eliminate possible problems downstream. The Surveyor stated when he made the site visit with Mr. Maley and Ms. Bower they walked their properties and the issue was brought up at that time. The Surveyor stated he felt a more complete study was needed in order to give an accurate answer. He did not necessarily look on the east side of the road then. He said it could be possible. As far as putting in a holding pond facility the area would have to be studied in greater detail than the D.N.R. study had shown. His fear is the area is shown in the floodplain. Regrading the swale may help small rain events but in larger rain event even the ponds would not help. There was just too much water flowing through that area. Mr. Maley stated he agreed. Mr. Maley explained they were flooded on the back or west side of house first then it came over the road on the east side. In his case option #3 even in a heavy rain, would relieve some of the water on the east side of the

road as there was about a 2 feet difference between the water on the east side of Co. Rd. 300W and the west side during the flooding event. So this was a significant difference. Option #4 was the overall watershed excluding Hadley Lake. The Surveyor stated he thought the outfall was constructed in the mid to late 1980's. Was there any reason why the area should not be regulated in stages as the options were presented? The Attorney noted that cost was a consideration. Option #3's improvement cost would be divided by five or six landowners who were affected versus option #1's cost which would be more expensive due to the size of watershed. However Option #1's cost would be divided by many more landowners and could result in a lower cost to each landowner within the overall watershed. Since this area was a mix of rural and urban development and increasingly becoming more urban, the result of the report may indicate the need for it to be designated as a County Regulated Urban Drain. Designating it a County Regulated Urban Drain would cause the assessment to be variable. With an Urban Drain assessment, a residential lot's benefit would defer from agricultural or a commercial lot. Responding to Mr. Maley, the attorney stated the drainage code set up a mechanism whereby landowners within an area could solve a drainage problem and share the costs. So that landowners in Wea Township do not have to pay the costs of solving a drainage problem in Wabash Township, only the landowners within a designated watershed pay the costs of improvements within their watershed. Traditionally in an agricultural/residential area it was common to assess a per acre/ per lot assessment. When there was a mix of commercial, residential and agricultural it was more appropriate to have different assessments as tract characteristics are different. Patricia Useem 3901 Capilano Drive (Capilano Subdivision) West Lafayette asked if there were flooding problems within option #1 now. The Surveyor noted there were problems with some areas south of the tracks however not to the degree the landowners were having north of the tracks. With the original DNR study, it was apparent the railroad tracks were acting as a restrictor as it showed how water pooled up. Ms. Useem noted there were numerous areas in Capilano Subdivision that had flooding issues but some which did not. She stated it seemed to her Option #1 would not take any more time to fix the problem because the problem really was in the northern section. If they went with option #1 the benefit would affect a larger area. The Surveyor noted there was not one single fix to the problem. For example the S.W. Elliott County Regulated Drain was the biggest watershed in the county and designated an Urban Regulated Drain. In the early 1990's or late 1980's it was known there were large drainage problems, so the affected landowners, entrepreneurs-businessmen and farmers got together and requested the Drainage Board compose a watershed study. What this did was allow research and data collection which indentified the problem locations. This information was used to propose a large scale plan to be put in place. A plan like this could involve restrictions on future developments, multiple facilities whatever the case may be for that issue. The issue at hand could take a combination of actions. Ms. Useem stated looking back at the meeting minutes from July there was lots of information gathered and the D.N.R. study was mentioned then. She stated her concern would be if the additional study would give any more useful information than the previously DNR study. Perhaps it was time to move forward rather than wait for another study. The Attorney stated he did not believe it would be wise as he recalled the existing D.N.R. study was at least 20 years old and did not take into consideration the development within the watershed since then. She stated she was unaware of the age of the study. The Attorney noted if you look at the delineation of Option #1 as including everything within the watershed and the costs spread out over more landowners one would have the challenge of getting the required amount of people to sign the petition. The statue required the petition to be signed by owners of 10% of the ACREAGE of the entire watershed or 25% of the assessed value in the petition. While the area was larger it would also be a bigger challenge to get the required amount of people to sign for it. Mr. Maly stated the northern half seemed to have most the problem. It really seemed to flood around the Morehouse Rd (aka U.S. 52) and the train bridge. With that said if only the people affected by the flooding sign it may not be enough signatures by statue to accomplish creating a new regulated drain and implementing a study. The Attorney noted however that as additional development occurred in the affected northeast area more people would be inclined to sign the petition. The area's runoff had backed up over the years and would continue to do that, so there would be an interest for those to sign the petition-even though they may not see an immediate problem. Mr. Maley stated it would be logical for them to get as many people within the overall watershed to sign the petition then an option could be chosen. This would allow no commitment until the signatures were obtained and presented at the hearing. The Attorney stated by the exhibit shown it looked as if the northern half had the majority of acreage (more than 10%) If everyone within the northern half signed the petition to make the entire watershed a regulated drain, then the Drainage Board would refer it back to the Surveyor. At that time the engineering work would start. The Surveyor would have to determine what would be required from an engineering standpoint to construct a regulated drain. This would address the storm water runoff problems in the entire watershed as well as the cost and benefit. Then the Drainage Board would have to determine if the benefits of making it a County Regulated Drain for the entire watershed out way the costs of implementing the improvements. If that was the case, the Board would then order the creation of the County Regulated Drain for that watershed. As stated previously it only takes 10% of the ACREAGE within the proposed watershed to bring it in front of the Board to start the process. Responding to Mr. Murtaugh's question regarding specific area problems within the watershed could potentially be split off into County Regulated drains for just that area. The Attorney stated that is reason for the current regulated drains within the overall possible watershed area such as the Lewis Jakes County Regulated Drain. Responding to Ms. Bower's inquiry, the Surveyor noted boundaries had to be determined before the process could be started. The Attorney stated petition requirements were names, addresses and legal descriptions of the tracts affected by the

proposed regulated drain. A general route and statement from the Surveyor of costs and benefits would be required as well. Ms. Useem asked if this would include the area of the Coyote Crossing golf course. The Surveyor stated he believed Coyote Crossing drained into Burnett's Creek - a different watershed. Ms. Bower asked what impact or what information might they gain from the upcoming U.S. 231 project? This relocation would travel through Maley's land and the Hadley Lake location. Would any information be gained from that project as the roads runoff would affect that area as well? John Knochel stated he wholeheartedly agreed with that however he was not aware of any drainage plans submitted for that relocation yet. The Surveyor stated he was not sure if his office had received a complete set of drainage calculations for U.S. 231 relocation to date. He stated some of the runoff north of the s curve did go through that direction. Some of the landowners in Brindon Woods south and west of the church on U.S. 52 had concerns regarding the relocation of U.S. 231 and visited the Surveyor office. He had been in the process of obtaining the information from INDOT on that issue. He noted Christopher B. Burke Engineering Consultants had been reviewing some of the plans for drainage among other reasons. His point was the relocation of the U.S. 231 had very little affect and only the north segment would be routing that direction. It would be a small amount. However this will definitely be looked at. He just wanted to clarify that a small amt. of runoff from that project ran that direction. The U.S. 231 drainage study would be looked at however, he did not anticipate seeing any major differences. Mr. Murtaugh asked if the landowners had a chance to discuss this with other neighbors and if they would like a chance to do so and return to the next meeting of the Board. Mr. Maley stated he would like to do that as everyone was interested in obtaining a corrective study and work done at this time. Mr. Maley stated they would be willing to discuss the options with their neighbors and pass the petition around for signatures. Ms. Useem stated she felt the neighbor's concern would be the cost of the project. Mr. Maley stated he understood the S.W. Elliott drain was an urban drain and wondered if one could look at its assessment to get an idea of fees. The Surveyor noted each drain was unique in its issues therefore costs would defer. The individual fees would be spread across a few years for each landowner. Mr. Maley asked if there would be state or federal help with construction costs. The Surveyor noted there could be financial assistance potentially but it varied drastically upon the assistance available (government private organizations etc.). Those processes may be lengthy but were not guaranteed. He reiterated while most regulated drains were rated per acre or lot, the S.W. Elliott Regulated Drain was designated an "Urban Drain" therefore it had a variable rate which depended on the type of land use (ag, residential, industrial, commercial etc.). In addition variable rates were determined by the zoning of the tract in question. He felt the approximate general fee for the S.W. Elliott Regulated Drain study was approximately \$100,000.00. The Attorney stated fees for the construction of a newly regulated drain would be due on the date assessments were certified to the County Auditor, however a landowner may elect to pay with equal installments over five years with penalty. Mr. Maley asked if a detailed list of landowners would be provided to the person taking the petition around for signatures. The Surveyor stated yes that his office would provide the list which included the landowner names, address and benefited acreage amount. Ms. Useem asked to be informed of the steps to be taken. The Surveyor stated his office delineates the watershed (sets the boundaries) and provides those names to the person who would take the petition around for signatures. Mr. Murtaugh stated once a signed petition was presented to the Board, they could direct a study to be completed. Responding to Ms. Useem's inquiry regarding cost of a study and new construction, Mr. Murtaugh stated depending on the cost the County may be able to pay for the study. The Attorney stated as long as the petition received met the minimum criteria a study may be started before the construction of a new drain. He then reviewed the steps for a new drain construction that a petitioner and affected landowners could expect. Ms. Useem asked if the ball was in their court and the Surveyor responded that it was. The Surveyor noted his office would provide the appropriate documents to start the process in motion and send the information in the mail to each of them. Ms. Useem stated she would be the contact person regarding the Capilano Subdivision landowners. Mr. Maley asked that the landowner list provided would be split up in the northern half and southern half of the watershed. Mr. Maley stated he could receive the list electronically as well. The attendees today, Mr. Maley, Ms. Bower and Ms. Useem would provide their contact information to the secretary for the Surveyor to send them the information once collected.

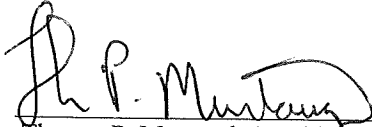
Other Business

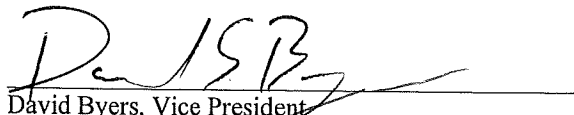
Tippecanoe County Stormwater Quality Ordinance Retention Pond Revisions

The Surveyor updated the Board regarding retention ponds and revisions discussed to the Stormwater Quality Ordinance and Technical standards. The main intent was to look at low impact developments and also pond safety measures which were in the current ordinance. The Drainage Consultants Christopher Burke Engineering has worked with other counties to update their storm water ordinance standards and review safety mechanisms on detention ponds. They have looked at numerous standards nationwide as well as within the state. The new Drainage Ordinance and Technical Standards were in the process of being revised.

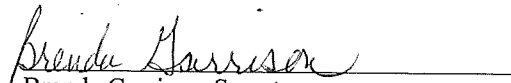
Public Comment

As there was no public comment, David Byers made a motion to adjourn.. The meeting was adjourned.


Thomas P. Murtaugh, President


David Byers, Vice President


John Knochel, Member


Brenda Garrison, Secretary

